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HAROLD B. WILLEY

SUPREME COURT OF THE UNITED STATES, OF AMERICA

October Term, 1955.

No....641.

Anne M. Evans, Appellant

vs.

St. Louis Housing Authority, The City of St. Louis, a Municipal Corporation, The United States Housing Authority, and The Hon. Robert L. Aronson, Judge of Division No. 8 St. Louis Circuit Court, Appellees.

PETITION FOR WRIT OF CERTIORARI.

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Legal References

Title 12 U.S.Code 1731 (3) 'Who-ever willfully over-values any security with intent to defraud, shall be punished.'

Title 12 U.S.Code annotated criminal violation, 1731 (a) These 3 phoney Collector's Deeds from Prante were used falsely to claim that this property duly recorded in Appellant's name had been re-transferred to the City of St.Louis, and in turn to the St.Louis Housing Authority and Federal Housing Administrator, and used as security for tax-free bonds already issued and sold in inter-state commerce to raise thousands of dollars, when in fact the Prantes had no title at the time to transfer and the 3 deeds were valueless, punishable by fine of $3,000.00 or 2 years imprisonment or both. When 'with intent that it be accepted by the Housing Administrator', Record P.11.

Title 12 U.S.Code annotated, 1743 Housing Administrator to mean Federal Housing Commissioner. See Record, P.9

192 F.918 (5) 'Where scheme to defraud is involved, it is frivolous to raise question of difference between Nat'l Housing Administrator, and Federal Housing Administrator.'

Title 28 U.S.Code 2283 (38) No statutory power can limit the power of the Federal Court to prevent fraud, Full powers of equity to relieve fraud, if proved.

291 U.S.33 The prohibition of Par 265 (28 U.S.C.A. 2283) is not a bar when there is fraud and the citizens right under the U.S. Constitution is involved. See bottom of page 3 quoting Opinion of the District Court, and page 4 of the Opinion of the Court of Appeal sustaining it. City Bank v Schnader 291 US 33

Cause 75398C ST.Louis Circuit Court. P.8

Cause 44701 Evans v Buente, City of St.L et Al

Cause 44807 St.Louis Housing v Evans et Al.

Rules of Civil Procedure. Mo.Laws 1943 p.353 New matter in Answer requires Reply. Fair Co. v Union May Stern, 359 Mo 389

5th and 14th Amendments of U.S.Constitution requiring Just compensation, and Due process of Law.

SUPREME COURT OF THE UNITED STATES OF AMERICA

October Term, 1955.

No.....

Anne M. Evans, Appellant,

vs

St. Louis Housing Authority, The City of St. Louis A Municipal Corporation, The United States Housing Authority, and the Hon. Robert L. Cronson, Judge of Division No. 8 of the St. Louis Circuit Court, Appellees.

Appeal from the United States District Court
For the Eastern District of Missouri

Jurisdictional Statement.

(a)

Opinion on page 11 of Original record. Found in the advance sheets, 226 F 2nd, page 750. Dated Nov. 9, 1955.

(b)

Appellant's private property bought at the execution of a judgment for City benefit assessments, has been seized by the City and transferred to the St. Louis Housing authority without due process of law and without paying her a cent of money for it; and is being used as security to raise $185,000.00 by the sale of tax free bonds, and has constructed housing units on it while the title was being contested in the State Courts, contrary to the U.S. Constitutional Amendments, which provide that private property may not be taken for public use without just compensation; and without the notice indicated by Due Process of Law, the 14 th amendment. This has been done by Court decisions validating 3 tax-collector's deeds from Prante to the City adequate to transfer appellant's title back to the City, when the description of the property is not correct; and they hold no title transfer from Evans, and the Condemnation proceeding was irregular, no notice of Commissioner's Award, no Reply to Answer.

The revised rules of the U.S. Supreme Court Part V, 19,1,(b) provides for Review on Certiorari , where a Court of Appeals has decided a Federal question in a way in conflict with applicable decisions of the U.S. Supreme Court, and has so far sanctioned such departure of a lower Court as to call for an exercise of the U.S. Supreme Court' s power of supervision. The Opinion is on page 18 of the Original Record, and dated Nov. 9,1955.

This appeal affirms the Order of the U.S. District Court for the Eastern District of Missouri, sustaining the defendants'-appellees' Motions to dismiss and dismissing the Complaint of Appellant who asked for an Injunction (Record page 3) against the U.S. Housing Authority from occupying or using her property in the Darst Housing Project until '' The cloud on the title of this land shall have been adjudicated, and the Security of the Public, buying the bonds, sold as A-1 tax-free bonds be protected; and on proper showing that this Injunction be made permanent''. This was entirely over-looked on P. 3 of the Opinion of the U.S. Court of Appeals being represented in the quotation by 3 astericks, as if it were unimportant.

The cloud on the title complained of, was the use by the City and the acceptance by the Housing Authorities of 3 Tax-Collector' s Deeds based on title certificates dated Nov. 11,1937, culminating in deeds in 1941 which neither described her property accurately, being 62 1/2 square feet less than the area described in her Sheriff' s deed dated Oct. 11,1936 which she purchased , at the execution of a judgment in rem for City benefits nor was appellant' s name on them, but they showed on their face that it was a transfer of title from Charles and Clara Prante to the City of St. Louis. These three Collector' s deeds were not used to convey any interest the Prante' s might still have, though Appellant knows of none, but were used to convey Appellant' s property and transfer appellant' s title to the St. Louis Housing Authority and Federal Administrator (see the last line on Page 2 of Plaintiff' s Complaint for Injunction) without paying anything for her property, in violation of the 14 Amendment of the U.S. Constitution, and the 5th Amendment.

On P. 8 of the Record filed in the U.S. District Court Feb. 11,1955, (6)Appellant states in her Reply to Appellees Motions to Dismiss ,

> ''Plaintiff seeks the aid of the Court to protect and effectuate a previous ruling in the case of Evans v. City of St. Louis, Cause 75398 C involving the identical property wherein Judge Koerner found

in 1945, Page 43 Item 4.'' In accordance with an agreed statement of fact, the Plaintiff's name had not been entered on the Plat Books in the Assessor's Office even though Pl's deeds had been duly recorded.'' Violating this finding, Defendant, Judge Aronson indicated his intention of making a distribution of the $8,100 award for the land under the Condemnation petition.

In failing to enter appellant's name on the Assessor's books, she was deprived of all notices resulting therefrom in violation of the rights of Appellant to notice, under the due process clause of the 5th Amendment of the Constitution of the U.S. resulting in the complete loss of her title to her property, without notice and without just compensation.

Lodged with the Court was a copy of the St. LOUIS HOUSING AUTHORITY OVERALL PROJECT FACT SHEET, see page 3 and 4 of Appellant's Motion for a Re-Hearing, showing that tax-free bonds had already been sold in interstate commerce, financially secured by the 3 Collectors deeds, heretofore mentioned, which deeds, and the condemnation proceedings, without due notice to this Appellant were at the same time being challenged in the Mo. Supreme Court, with full knowledge and notice to all of these defendants. Without passing on the validity of the only deeds presented to transfer title, the Court dismissed both of appellant's cases, because the Intervenor's refused to sign the Transcript, although a full Transcript signed by Plaintiff and Defendant. By failing in their duty to sign it, or file a corrected one they were able to get appellant's property.. These cases are numbered 44,807 Mo Supreme Court, St. Louis Housing v. Evans et Al, and Evans v. City of St. Louis, et al No. 44,701. A separate application for a Writ of Certiorari is being prepared together for these two cases, and will be submitted to the Supreme Court, that the 3 of them may be considered, as the same questions have been raised and avoided as to these Collector's deeds in all three cases.

On page 2 of Appellant's Motion for a Re-Hearing, filed Nov. 25, 1955,'' Title 28, 2283 (38) provides: No stwtutory provision can limit the power of the Federal

District Court to prevent fraud, and such Court may complement the Illinois Local Improvement Act- with full powers of Equity in order to relieve fraud if proved.''

This Court has jurisdiction to enforce . Title 12, U.S. Code 1731 (3): Who-ever-willfully over-values any security, with intent that it shall be accepted by the Housing Administrator. shall be punished.''

Wherefore it is prayed that fee simple title be declared in Appellant under her Sheriff's Deed, but in lieu thereof, since the project is nearing completion, a cash payment of $125,000.00 or an assignment of fifteen family units in the Darst project, and costs of Court herein expended, since by refusing the injunction the construction continues without proper condemnation, and without any deeds from appellant, but on deeds from Charles and Clara Prante. And prays the Court to issue a Writ of Certiorari

*The Mo Supreme Court has failed to rule on this question, but has sustained title granted on deeds from Prante and Buente, to Intervenor's by sustaining Motions to Dismiss.

(Signed) Anne M. Evans, Atty. pro se.

Wed. Nov. 9, 1955 JUDGMENT. No. 15323 Sept. Term

(Names of parties to suit omitted) Appeal from the United States District Court for the EASTERN DISTRICT OF MO.

This cause came on to be heard on the record from the United States District Court for the Eastern District of Missouri; on the Motion of appellees, City of St. Louis and the Honorable Robt. L. Aronson, Judge of Division 8 of the St. Louis Circuit Court Court to dismiss the appeal, and was argued by appellant pro sr and by counsel for the appellees

On Consideration Whereof, It is now here Ordered and Adjudged by this Court that the Order of the said District Court in this cause sustaining the defendants-appellees' Motions to dismiss and dismissing the Complaint be, and the same is hereby, affirmed.

November 9, 1955.

Order denying Petition of Appellant for Re-hearing December 5, 1955.

(Opinion)

UNITED STATES COURT OF APPEALS FOR
The Eighth Circuit

No. 15,323.

Anne M. Evans, Appellant,
vs
The St. Louis Housing Authority, et Al.
Appellees

Appeal from the United States District Court for the Eastern District of Missouri.

November 9, 1955.

Anne M. Evans, Appellant, pro se.

John J. Shanahan (James E. Crowe was with him on brief for Appellee St. Louis Housing Authority.

Andrew J. Reis, Associate City Counselor (Samuel H. Liberman, City Counselor was with him on the brief for Appellees City of St. Louis and Hon. Robt. L. Aronson, Judge of Division 8 of the St. Louis Circuit Court.

Before Woodbrough, Johnsen and Vogel, Circuit Judges.

Vogel, Circuit Judge.

Plaintiff, appellant, (Anne M. Evans) brought this suit against St. Louis Housing Authority, Thr City of St. Louis, a Municipal Corp., The United States Housing Authority and the Hon. Robert L. Aronson, Judge of Division No. 8 of the St. Louis Circuit Court, defendants. It would appear from the complaint that Miss Evans claimed ownership of certain real property referred to as Parcel 18 in Item 17 in a condemnation suit instituted bu the St Louis Housing Authority in the St. Louis Circuit Court and that the City of SSt. Louis claimed title to the same property. The parcel ownership of which was disputed, was valued in the Commissioner's Report at $8100.00 and such amount was paid into the registry of the St. Louis Circuit Court. It does not appear that any exceptions were ta-

ken to the award. Accordingly both the City of St. Louis and the Appellant claim to be entitled to the amount of the award.

The City of St.Louis filed a motion for distribution of the award to it. The Court sustained. Thereafter ,Miss Evans filed a motion entitled, ''Motion for a New Trial,Judgment on the Pleadings and Order for Award to Defendant Evans'.''This Motion was overruled.Appeal was taken by Miss Evans to the Supreme Court of Missouri.On the same date that the appeal was filed,Miss Evans instituted this action in the United States District Court,asking that the Court issue an order directed to the Honorable Robert L.Aronson,Judge of the St.Louis Circuit Court , Division 8,to show cause why he should not be enjoined from authorizing the distribution;. against the City of St.Louis from claiming any title to the property;against the St.Louis Housing Authority from occupying or using the property;against the United States Housing Authority''*** in connection with the housing construction on the said property

The defendants City of St.Louis,St.Louis Housing Authority and the Hon.Robt.L.Aronson filed motions to dismiss.In a memorandum opinion,the trial court stated:

''This case arises out of a state court condemnation proceeding,and plaintiff is here seeking to enjoin the distribution,by the state court, of the funds involved in that proceeding.Defendants ' have filed motions to dismiss,which we now consider.

'A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction,' or to protect or effectuate its judgments.'

Under the mandate of this statute we are without power to entertain this action.See also,Marblehrad Land Co. v.Los Angeles County (D.C.,S.D.Cal. 1921) 276 Fed.305.

Plaintiff's complaint fails to state a claim upon which relief may be granted as required by the Federal Rules of Civil Procedure.Dickert v Hi-

ckey (D.C.N.Y. 1940(47 F.Supp.577.

It is imperative the complaint allege sufficient facts to show wherein this Court has jurisdiction. Gustafson v.Fred Wolferman (D.C.W.D.Mo.1945) 6 F.R.D. 503.Plaintiff's complaint does not do so.

Order

'Defendant's motions to dismiss are sustained.'

In a substitute order on the same date, the trial court ordered:

'Defendant's motions to dismiss are sustained and the complaint is hereby dismissed.'

Appeal is taken therefrom.

As stated by the trial court, it would appear that the instant action was commenced for the purpose of enjoining the action of a Missouri state court from distributing a condemnation award which had been deposited in the registry of the court. It is quite clear from the record that the state court had jurisdiction and that the entire dispute was a matter of ownership of Parcel 18 and now the right to the award, it having taken the place of the property concerned. Appellant sets forth that she has appealed to the Supreme Court of Missouri from an adverse decision in the lower state court. She now asks this court to enjoin the distribution of the award and enjoin the City of St.Louis from claiming title and the other defendants from occupying or using the property.Her prayer for relief flies squarely in the face of Title 28 U.S.C.A. 2283, quoted by the trial court, supra.

Appellant indicates nothing in the complaint which would bring the matter within any of the exceptions contained in the statute.Clearly that statute is bar to the present proceedings. Hill v.Martin, State Tax Commissioner, et al., (1935) 296 U.S.393,403)

''Fourth.The prohibition of par.265(28 U.S.C.A.2283) is against a stay of 'proceedings in any court of a State.' That term is comprehensive.It includes all the steps taken or which may be taken in the state court or by its officers from the institution to the close of the final process.It applies to appellate as well as to original proceedings: and is independent of the doctrine of res judicata.It applies alike to action

by the court and by its ministerial officiers; applies not only to an execution issued on a judgment, but to any proceeding supplemental or ancillary taken with a view to making the suit or judgment effective. The pro hibition is applicable whether such supplementary or ancillary proceeding is taken in the court which rendered the judgment or in some other. And it governs a privy ti the state court proceeding-like Elinor Dorrance Hill- as well as the parties of record. Thus, the prohibition applies whatever the nature of the procee ding, unless the case presents facts which bring it within one of the recognized exceptions to Par. 265. It is not suggested that there is a basis here for a any such exception.''

The trial ourt found, quite properly, that it was without power to entertain the action.

In the appeal here, Miss Evans claims that the trial court overlooked her motion for judgment by default against the United States Housing Authority. The record indicates that the appellant moved the court to grant a judgment by default for $125,000.00 against the St. Louis Housing Authority and the United States Housing Authority. The motion was unsupported. She could not have prevailed therein. The St. Louis Hous - ing Authority was not in default, it having filed a motion to dismiss. Insofar as the United States Housing Authority is concerned, no default judgment for $125.000.00 could be given against it as the complaint upon which the motion was based fails to ask for such relief.

Rule 54(c) of the Federal Rules of Civil Procedure insofar as it is applicable herein, provides as follows

> ''A judgment by default shall not be different in kind from or exceed in amount that prayed for in the demand for judgment.'

Not only does the complaint fail to ask for the relief requested in the motion for default judgment, but fails to allege any facts upon which relief could be granted in a federal court and there appears no possibility of amendment which would heal the situation. The district court's action in sustaining the defendants-appellees' motions to dismiss and in dismissing complaint affirmed.

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